

367.46955 Prohibited telephone solicitation acts and practices.

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any person making a telephone solicitation to engage in the following conduct:

- (1) Advertising or representing that registration as a telemarketer equals an endorsement or approval by any government or governmental agency;
- (2) Requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record;
- (3) Requesting or receiving a payment in advance from a person to recover or otherwise aid in the return of money or any other item lost by the consumer in a prior telephone solicitation transaction;
- (4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the telemarketing company has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;
- (5) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or bond or other account without the consumer's express written authorization, or charging a credit card account or making electronic transfer of funds except in conformity with KRS 367.46963;
- (6) Procuring the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected;
- (7) Assisting, supporting, or providing substantial assistance to any telemarketer when the telemarketing company knew or should have known that the telemarketer was engaged in any act or practice prohibited under this section;
- (8) Making a telephone solicitation to anyone under eighteen (18) years of age. When making a telephone solicitation the telemarketer shall inquire as to whether the person is eighteen (18) years of age or older and the answer shall be presumed to be correct;
- (9) Utilizing any method to block or otherwise circumvent the use of a caller identification service when placing an unsolicited telephone solicitation call;
- (10) Directing or permitting employees to use a fictitious name or not to use their name while making a telephone solicitation;
- (11) Threatening, intimidating, or using profane or obscene language;
- (12) Causing the telephone to ring more than thirty (30) seconds in an intended telephone solicitation;
- (13) Engaging any person repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive, or harassing;
- (14) Initiating a telephone solicitation call to a person, when that person has stated previously that he or she does not wish to receive solicitation calls from that seller;
- (15) (a) Making or causing to be made an unsolicited telephone solicitation call if the residential number for that telephone appears in the current publication of the

zero call list maintained by the Office of the Attorney General, Division of Consumer Protection. Any holder of a residential telephone number may notify the division and be placed on a zero call list indicating the wish not to receive unsolicited telephone solicitation calls by notification to the division. The telephone numbers of persons requesting to be on the zero call list shall remain on the list until the person rescinds his or her name from the list.

- (b) The zero call list shall be updated, published, and distributed on a quarterly basis in electronic and hard copy and may be made available in other formats at the discretion of the division. After the publication of the list each quarter each telemarketing company, telemarketer, and merchant shall be deemed to be on notice not to solicit any person whose telephone number appears on the list. The list shall be made available to requesters either on a statewide or county by county basis;
- (16) Making telephone solicitations to a person's residence at any time other than between 10 a.m. - 9 p.m. local time, at the called person's location;
- (17) Selling or making available for economic gain any information revealed during a telephone solicitation without the express written consent of the consumer;
- (18) Making a telephone solicitation to any residential telephone using an artificial or prerecorded voice to deliver a message, unless the call is initiated for emergency purposes by schools regulated by the Kentucky Department of Education or the call is made with the prior express consent of the called party; or
- (19) Engaging in any unfair, false, misleading, or deceptive practice or act as part of a telephone solicitation.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 21, sec. 2, effective July 15, 2002. -- Created 1998 Ky. Acts ch. 581, sec. 3, effective July 15, 1998.

Legislative Research Commission Note (07/15/2002). Under the authority of KRS 7.136, the Reviser of Statutes has corrected a clearly erroneous statutory reference in subsection (5) of this section as enacted in 2002 Ky. Acts ch. 21, sec. 2, by changing "KRS 367.46953" to "KRS 367.46963."